

# **EXHIBIT 8**

## DEPOSITION OF VIPIN MAYER

PAGE 1 SHEET 1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STEVEN R. KINCAID,

Plaintiff,

vs.

BANK OF AMERICA CORPORATION,

Defendant.

CIVIL ACTION NO.  
04-11522-WGYDEPOSITION  
OF  
VIPIN MAYER

At Charlotte, North Carolina

June 3, 2005

Reporter: Christine A. Taylor  
Notary Public

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## A P P E A R I N G

For the Plaintiff: DAVID J. FINE, ESQ.  
Law Offices of David J. Fine  
Suite 400  
Three Center Plaza  
Boston, Massachusetts 02108For the Defendant: RICHARD F. KANE, ESQ.  
McGuireWoods, LLP  
Suite 2900  
100 North Tryon Street  
Charlotte, North Carolina 28202

Also Present: Steven Kincaid

\*\*\*\*\*

## I N D E X

Examination By Mr. Fine

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## E X H I B I T S

Mayer 1 90-day Mailbox Clean-up Policy

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(Exhibit attached to transcript.)

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1 This is the deposition of VIPIN MAYER, taken in  
2 accordance with the Federal Rules of Civil Procedure in  
3 connection with the above case.

4 Pursuant to Notice, this deposition is being taken  
5 in the Law Offices of Hamilton, Fay, Moon, Stephen,  
6 Steele & Martin, 2020 Charlotte Plaza, 201 South College  
7 Street, Charlotte, North Carolina, beginning at 9:05 a.m.  
8 on June 3, 2005, before CHRISTINE A. TAYLOR, Notary  
9 Public.

10  
11 VIPIN MAYER, upon first being duly  
12 sworn, testified as follows:

## EXAMINATION BY MR. FINE

15 Q. Please state your full name.  
16 A. Vipin Mayer.  
17 Q. Spell your last name.  
18 A. M-a-y-a-r.  
19 Q. Where do you reside?  
20 A. In Charlotte, North Carolina.  
21 Q. How are you employed?  
22 A. I am self-employed.  
23 Q. What kind of business?  
24 A. It's a consulting business.  
25 Q. What's the name of the consulting business?

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1 A. It's Qual Solutions, Q-u-a-l Solutions.  
2 Q. What kind of consulting does Qual Solutions do?  
3 A. It's marketing, marketing services.  
4 Q. How many employees does Qual Solutions have?  
5 A. Just -- just me.  
6 Q. How long have you been in that consulting  
7 business under the name of Qual Solutions?  
8 A. I'm not sure when I incorporated it. It was  
9 sometime last year.  
10 Q. When did you actually start to do the consulting  
11 work?  
12 A. Starting in I think December, January of this  
13 year.  
14 Q. 2005?  
15 A. December 2004 or January 2005.  
16 Q. Okay. Starting with high school, can you briefly  
17 describe your educational background?  
18 A. Sure. I was high school, science and math  
19 specialization in high school.  
20 Q. What high school did you go to?  
21 A. It was high school in New Delhi, India, Mount  
22 St. Mary's.  
23 Q. Okay.  
24 A. Okay. From there I went to an engineering school  
25 called IIT, Indian Institute of Technology. It's

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- 1 A. Yes.
- 2 Q. And it's a lawsuit brought by Mr. Kincaid where
- 3 he's making certain claims against the bank.
- 4 A. Uh-huh.
- 5 Q. And Mr. Kincaid was somebody in CAMR, right?
- 6 A. Yes.
- 7 Q. Okay. Have there been any other lawsuits against
- 8 the bank brought by employees who worked for
- 9 CAMR?
- 10 A. Not that I know of.
- 11 Q. Okay. Would you agree with me that one of the
- 12 things that a good manager wants to make sure of
- 13 is that if somebody is terminated, there is a
- 14 real clear record as to precisely why they were
- 15 terminated?
- 16 A. Yes.
- 17 Q. And would you also agree with me that the more
- 18 specific and the better documented the
- 19 termination is, the better the termination
- 20 process was done?
- 21 A. Yes.
- 22 Q. Okay. And conversely, if the process of
- 23 termination was not well documented and not
- 24 specific, that represents a failing on -- in
- 25 management in some sense?

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- 1 A. Yes.
- 2 Q. Okay. Prior to your deposition today, did you
- 3 review any documents?
- 4 A. No.
- 5 Q. Okay. Did you do anything to prepare for the
- 6 deposition?
- 7 Let me be more specific. Mr. Kane is here today.
- 8 A. Uh-huh.
- 9 Q. Did you speak to Mr. Kane prior to the
- 10 deposition?
- 11 A. I -- he and I spoke.
- 12 Q. Yes. You met with him? I'm not asking for what
- 13 was said.
- 14 A. Yeah. Yeah, I did meet with him, yes.
- 15 Q. Okay. Other than meeting with Mr. Kane, did you
- 16 speak with anybody?
- 17 A. No.
- 18 Q. Okay. Now, when you were at CAMR, was there a
- 19 practice in place for giving employees reviews
- 20 and performance evaluations on a periodic basis?
- 21 A. Yes.
- 22 Q. And what was the practice?
- 23 A. Every six months, and -- that was the requirement
- 24 to do it every six months, and there were --
- 25 there were some discussions that also happened

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- 1 every three months, but definitely every six
- 2 months performance discussions would take place.
- 3 Q. Okay. Did you, yourself, ever review the written
- 4 performance and evaluation reports that were done
- 5 on employees in CAMR?
- 6 A. I obviously would review my directs and prepare
- 7 my directs. I think one level below them, I
- 8 would just have them send me the reviews. So I
- 9 think one level below, I would just take a
- 10 little -- you know, I would look to see just for
- 11 completeness and -- and, you know, just making
- 12 sure the tone of the performance reviews were --
- 13 were fine. So I would go one level below.
- 14 Q. Okay.
- 15 A. And spot check them. I wouldn't go through every
- 16 one of them.
- 17 Q. Right. But -- okay. So, for example,
- 18 Mr. Kotopoulos was your direct report; you would
- 19 give him his reviews.
- 20 A. Yeah.
- 21 Q. And Sheila Burroughs was one of the people
- 22 working under him --
- 23 A. Yes.
- 24 Q. -- and so you would give this a more cursory
- 25 review of a report that Mr. Kotopoulos did with

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- 1 regard to Sheila Burroughs?
- 2 A. Yeah, I would just take a look at the few of
- 3 these.
- 4 Q. Right. But then at the level below Sheila
- 5 Burroughs, you wouldn't be looking at those.
- 6 A. No.
- 7 Q. Okay. During the time that you were the head of
- 8 CAMR, were any claims of unlawful discrimination
- 9 made against people in CAMR?
- 10 A. I know there was an allegation made by -- by a
- 11 person. She -- she spoke to Human Resources
- 12 and -- and they spoke to me about it. And, you
- 13 know, as far as I know, what -- you know, what
- 14 they told me is that she had claimed certain
- 15 behaviors that were not appropriate and, you
- 16 know, as far as I know, they didn't think those
- 17 behaviors took place. So, I mean, that's --
- 18 that's the instance that I know of.
- 19 Q. Okay. Was that a case of -- was she claiming
- 20 sexual harassment?
- 21 A. No.
- 22 Q. What kind of discrimination or improper conduct
- 23 was she claiming?
- 24 A. I think it was around, you know, just
- 25 aggressiveness in the workplace, being -- just

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- 1 Q. Okay. Did you more recently than that telephone  
2 Mr. Kotopoulos so you can get together with him?  
3 A. No.  
4 Q. Did he at some point when you called him decline  
5 to get together with you?  
6 A. No. I mean, like --  
7 Q. No?  
8 A. I haven't had a conversation with him since last  
9 year around that time.  
10 Q. Okay. You're quite sure of that?  
11 A. I'm absolutely sure of that.  
12 Q. Okay.  
13 A. I mean, when I did talk to him then, I remember I  
14 did say, "If you want to get together, let's --"  
15 you know, but that was a conversation in 2004,  
16 way back --  
17 Q. Okay.  
18 A. -- at that point in time.  
19 Q. And what did he say when you said, "If you want  
20 to get together, let's get together"?  
21 A. I don't exactly remember his words, but I think  
22 the long and short of it was we didn't think  
23 that -- you know, we didn't really set up a time  
24 to get together, so.  
25 Q. Okay. When is the last time you spoke to Sheila

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- 1 Burroughs?  
2 A. Long time. I -- I don't think I spoke to her in  
3 2004 at all, but definitely not this year. Maybe  
4 sometime in 2003.  
5 Q. Okay. What in your view were Alec Kotopoulos's  
6 strengths as a manager?  
7 A. He got the job done. He delivered on getting  
8 things done, getting a whole -- an aggressive  
9 agenda delivered through, you know, managing the  
10 work.  
11 Q. Okay. Was he a hard worker?  
12 A. He was a hard worker.  
13 Q. Did he have any weaknesses as a manager, in your  
14 view?  
15 A. Yes.  
16 Q. What were they?  
17 A. His style was rough, was not people centric. He  
18 was more work centric than people centric.  
19 Q. Did you have enough contact with Sheila Burroughs  
20 to form a view of her strengths as a bank  
21 employee?  
22 A. I had enough contact with her to know about her  
23 knowledge and what she brought to the table with  
24 the knowledge.  
25 Q. Okay. And what was that?

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- 1 A. She was outstanding at -- in the field of market  
2 research in the space of brand and customer  
3 satisfaction.  
4 Q. Okay. Did you have enough contact with her to  
5 have any sense of what her weaknesses might be?  
6 A. Yes. But, you know, not sure I knew all of them,  
7 but, you know.  
8 Q. Okay. And what were they, in your view?  
9 A. She would be very often presenting to senior  
10 leadership because the agenda in brand and  
11 customer satisfaction was something important to  
12 the bank, and in those sessions she didn't listen  
13 as well to some of the points that were made by  
14 senior leadership. She had a lot of enthusiastic  
15 ideas and points, but sometimes didn't listen  
16 that well.  
17 Q. Okay. And was she perhaps a little resistant to  
18 seeing points of view that were different from  
19 her own?  
20 A. Yes, potentially, and that would be the extension  
21 that if you don't listen that well, you -- you're  
22 probably not seeing the other's point of view as  
23 quickly. Probably took her longer than some  
24 other people.  
25 Q. When you were at Fidelity, did you ever encounter

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- 1 Steve Kincaid there?  
2 A. No.  
3 Q. Okay. You know now that he did work at Fidelity?  
4 A. I knew when I met him in the interview process  
5 that he worked there.  
6 Q. Okay. All right. When Steve Kincaid was first  
7 interviewing for the job, did you interview him?  
8 A. I met him, just like I was telling I would meet  
9 anybody that was felt to be a key influential  
10 person within the organization.  
11 Q. Okay. When you were going through the budgeting  
12 process for 2002 in the months leading up to  
13 November 2001, was it envisioned at that point  
14 that the bank and CAMR in particular needed to  
15 hire somebody with statistical expertise?  
16 A. We always were looking for people with  
17 statistical expertise. That was what the  
18 group --  
19 Q. Okay.  
20 A. -- did.  
21 Q. I'm sorry, I think I cut you off a little bit.  
22 You said that was -- you started to say that was  
23 what the group?  
24 A. A lot of what the group did was analysis that was  
25 based on statistical methods, so that was some of

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